

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SHANNON EAVENSON,

Plaintiff,

vs.

Civ. No. 00-757 JP/WWD

PUBLIC SERVICE COMPANY OF NEW MEXICO,

Defendant.

MEMORANDUM OPINION AND ORDER

This Memorandum Opinion and Order is a followup to the Memorandum Opinion and Order I entered April 26, 2001. At that time, Plaintiff had served a Notice of Deposition Duces Tecum for the deposition of Jacqueline M. Woodcock, Esquire, which sought to have Ms. Woodcock bring with her to the deposition:

(2) All documents relating to any directives, interviews, or investigations pertaining to, involving, or disclosing "improper conduct" of any Public Service Company of New Mexico representative.

Defendant raised claims of attorney client privilege and work product, and I ordered an *in camera* inspection of the documents involved. I have now completed that inspection.

The documents I inspected consisted of a report to Defendant by its outside counsel, Ms. Woodcock and Robert C. Conklin, attorneys with Keleher and McLeod, a professional corporation, as well as notes made in connection with the preparation of the report. I have read the report and the aforementioned notes. In addition to the confidentiality which normally shields most attorney-client communications, this particular inquiry was conducted with a view toward protecting the identity of an aggrieved employee of Defendant who did not want his identity

disclosed. Although I find no direct reference to litigation in the documents I inspected, Defendant might well utilize the documents in a law suit. I have no present information as to Defendant's plans to use the report in the instant law suit.

Based on present circumstances, and the contents of the report and preparatory notes, I find that the sought information is protected from discovery by the attorney client privilege and, arguably, by the work product exception. There is good cause to grant the Defendant's Motion.

WHEREFORE,

IT IS ORDERED that Defendant's Motion for Protective Order [docket no. 40] be, and it is hereby, GRANTED.

IT IS FURTHER ORDERED that the materials submitted to the Court for an *in camera* inspection shall be sealed and filed with the Clerk of the Court with a copy of this memorandum opinion and order affixed to the exterior of the envelope containing said materials.


UNITED STATES MAGISTRATE JUDGE